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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 19th
day of April, 1995.

In the matter of Missouri Gas)
Energy's tariff revisions for)
the former Gas Service area)
(exclusive of the Palmyra area))
to be reviewed in the Actual)
Cost Adjustment for the period)
February 1, 1994 through)
June 30, 1994.)

Case No. GR-94-228

ORDER DISMISSING MOTION TO MODIFY PROTECTIVE ORDER

This docket was initiated by Missouri Gas Energy (MGE) on January 27, 1994, by the filing of purchase gas adjustment tariffs for the Palmyra District of its service area. On November 23, 1994, the Commission issued a protective order for discovery in this case at the request of MGE.

On April 6, 1995, MGE filed a motion to modify the above protective order. As the Commission understands MGE's motion, MGE perceives a problem in its employees being able to gain access to the furnished material once it has been incorporated in another party's testimony. As support for this position, MGE quotes the language of the protective order which states: "materials or information designated as highly confidential . . . may be reviewed only by attorneys or outside experts. . . ." MGE maintains it is possible that it would be forced to hire an outside expert to review testimony or other evidence which is incorporated or attached to another party's testimony because of the highly confidential designation placed on the material by MGE.

The Commission has noted a threshold problem in MGE's motion. The motion contains no allegation that any present problem or controversy exists in the discovery process in this case. MGE consistently uses the

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terminology "may be classified," "may want to review," and the like to describe hypothetical situations in which a modification of the protective order might be appropriate. MGE presents no allegation of an active controversy, however.

The Commission does not feel obliged to issue an order regarding discovery based on a hypothetical situation. MGE's motion is denied.

IT IS THEREFORE ORDERED:

1. That the motion of Missouri Gas Energy to modify the protective order in this case is denied.

2. That this order shall become effective on the date hereof.

BY THE COMMISSION

A handwritten signature in cursive script, reading "David L. Rauch".

David L. Rauch
Executive Secretary

(S E A L)

Mueller, Chm., McClure,
Perkins and Crumpton, CC., Concur.
Kincheloe, C., Absent.